

Date: April 7, 2011

TO: THE MUNCIE BAR ASSOCIATION AND THE
GENERAL PUBLIC

**NOTICE OF PROPOSED LOCAL COURT RULE AMENDMENT
DELAWARE CIRCUIT COURT**

The Delaware County Board of Judges pursuant to Trial Rule 81(B) give notice of their proposed amendment to the local court rule concerning the Bail Schedule at LR18-AR00-DLR-016. New language is indicated by underlining and deleted language is indicated by ~~striking through~~. The Judges find good cause under Trial Rule 81(D) to deviate from the schedule for amending local court rules. This amendment does not require Supreme Court approval and will be effective after review of any comments on **May 10, 2011**.

Comments regarding the proposed amendments must be received by May 6, 2010 and may be submitted in writing to:

Honorable Linda Ralu Wolf, Presiding Judge
Delaware Circuit Court No. 3
c/o Lana L. Scroggins, Court Administrator
100 W. Washington Street
Muncie, IN 47305
or by email to: llscroggins@co.delaware.in.us

DELAWARE COUNTY BOARD OF JUDGES

_____/S/_____
Marianne Vorhees, Judge
Delaware Circuit Court No. 1

_____/S/_____
Richard A. Dailey, Judge
Delaware Circuit Court No. 2

_____/S/_____
Linda Ralu Wolf, Presiding Judge
Delaware Circuit Court No. 3

_____/S/_____
John M. Feick, Judge
Delaware Circuit Court No. 4

_____/S/_____
Thomas A. Cannon Jr., Judge
Delaware Circuit Court No. 5

LR18-AR00-DLR-016
BAIL SCHEDULE

I. A. Felonies

~~A. For murder or attempted murder, no bail is to be set except by the Court at initial hearing.~~

~~B. For any person charged with being an habitual offender, bail is to be set at \$50,000.00;~~

~~C. For any class A felony offense, bail shall be set at initial hearing;~~

~~D. For any class B felony offense, bail shall be set at initial hearing;~~

~~E. For any class C felony offense, bail shall be \$10,000.00; however, if the class C felony involves serious bodily injury, bail shall be set at initial hearing;~~

~~F. For any class D felony offense, bail shall be \$5,000.00;~~

~~G. For any case where the person charged has been previously convicted of a felony offense within the past five (5) years, bail shall be twice the amount otherwise specified in this section.~~

1. Unless otherwise ordered by the Court, there shall be NO BOND for the charges of Murder or Attempted Murder except by the Court after a hearing.
2. For any Class A or B felony offense, or a Class C felony offense involving a deadly weapon or serious bodily injury, bail shall be set by the Court after a hearing.
3. The presumptive bond amount for bail on a Class A felony offense (except those involving Dealing in Controlled Substances, including Cocaine and Methamphetamine) shall be Thirty Thousand (\$30,000.00).
4. The presumptive bond amount for bail on a Class A or B felony offense for Dealing in Cocaine, Dealing in Methamphetamine, or Dealing in a Controlled Substance shall be \$50,000.00 total, regardless of the number of dealing offenses charged.
5. The presumptive bond amount for bail on a Class B felony shall be Twenty Thousand Dollars.
6. The presumptive bond amount for bail on a Class C felony shall be Ten Thousand Dollars.
7. The presumptive bond amount for bail on a Class D Felony shall be Five Thousand Dollars (\$5,000.00).
8. If the defendant has a prior felony conviction within the last Five (5) Years, bail shall be twice the amount unless otherwise specified in this section.
9. For any person charged with a Murder or a Class A, B, or C felony, and charged with being an Habitual Offender, bail is to be set at an additional \$50,000.00.

10. For any person charged with a Class D felony, and charged with being an Habitual Offender, bail is to be set at an additional \$10,000.00.

H. B. Misdemeanors

- A. 1. For class A misdemeanors, bail shall be \$2,500.00;
B. 2. For class B misdemeanors, bail shall be \$1,000.00.

III. C. Other Provisions

1. Persons shall be held without bond until the Pre-Charge Initial Hearing who are arrested and in which:

- a. the true identity of a defendant is unknown; or
b. there is good cause to believe the defendant is on probation, home detention/house arrest, parole, on bond, on pre-trial release to probation, or participating in the Forensic Diversion Drug Court Program.

2. Delaware County Jail shall place a Fifteen (15) Day hold on any offender upon request by a Delaware County Probation Officer or a Parole Officer employed by the State of Indiana. If the officer fails to initiate probation or parole revocation proceedings within the Fifteen (15) Day period, the hold shall expire.

~~A. **Intoxication** No person shall be released by the Sheriff of Delaware County, regardless of the provisions of this Order, unless such person clearly manifests that they are in a state of sobriety at the time the provisions of this Order would otherwise permit release.~~

3. **Intoxication:** The Sheriff of Delaware County shall not release any person unless such person clearly manifests that they are in a state of sobriety at the time the provisions of this Order would otherwise permit release.

4. The Sheriff shall hold in custody any person who is under the influence of alcohol or controlled substances until such time it is determined, at the Sheriff's discretion, that the individual may be safely released without danger to self or others.

B. Domestic Violence

~~A person arrested on a charge involving domestic violence shall not be released until twelve (12) hours has elapsed or until appearance in court, whichever is earlier. After twelve (12) hours, the person may post bail (1) pursuant to other sections of this Bail Order, and (2) if the person agrees in writing to initiate no contact with the victim. If the person charged refuses to sign such an agreement, they shall be held until brought to Court.~~

4. **Domestic Violence:** The Sheriff shall not release a person arrested on a charge involving domestic violence until Twelve (12) Hours has elapsed or until appearance in court, whichever is earlier. After Twelve (12) Hours, the person may post bail (1) pursuant to other provisions in this Bail Order, and (2) after signing a No Contact Agreement protecting the victim. If the person refuses to sign a No Contact Agreement, the Sheriff shall hold the person until brought to court.

~~C.~~ 5. **Overweight Trucking Violations:** The bail schedule as set out in this Order shall not apply to overweight trucking violations. Bail for such offenses shall be convened by I.C. 9-20-1, et seq.

~~D.~~ Double Bond

~~For any case where the person charged is on bail on a pending charge, the bail shall be twice the amount of the bail otherwise required by this Order.~~

~~E.~~ 6. **Full Cash Bond:** When any person proposes to post a full bond in cash or by certified check and the Clerk's Office is not open for business, the Sheriff shall accept the money or certified check and issue a receipt release to the person making the payment in that person's name or as they direct. Thereafter, as soon as is practicable, the sheriff shall deposit the money or check with the Clerk. The bond must be placed in the name of the arrested person. The Sheriff shall deposit the money or certified check with the Clerk as soon as possible.

~~F.~~ Felony Arrests While on Probation or Parole

~~Pursuant to I.C. 35-33-8-6, all adult persons, with any felony arrest, who are on probation or parole, shall not be released on the normal bond schedule, but should be brought before the Court at the earliest opportunity, and in no circumstances, should be held for longer than fifteen (15) days in jail without bond.~~

~~G.~~ 10% Cash Bond

~~The Clerk may not accept a 10% cash deposit in lieu of the bond otherwise required herein, except upon express written Order of a judge. In the event such a bond is approved by the Court,~~

~~the Clerk may retain as a service fee ten percent (10%) of the amount deposited when the bond is released at the conclusion of the case.~~

~~G~~ 7. **10% Cash Bonds:** The Clerk may not accept a 10% cash deposit in lieu of bond otherwise required herein, except upon written Order of a judge. In the event such a bond is approved by the Court, If the Court approves such a bond, the Clerk may retain as a service fee 10% of the amount deposited when the bond is released at the conclusion of the case.

~~H.~~ Property Bond

~~Pursuant to I.C. 35-33-8-3.2(a)(1)(e), an bond may be secured by real estate in the county, where thirty three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail. The Clerk shall not accept a property bond in lieu of a surety bond otherwise required herein, except upon express written Order of a judge.~~

- ~~I~~ 8. **Amount of Bail on Warrant:** If the bail is set at a probable cause hearing, the amount of bail set by the judge shall be endorsed upon the arrest warrant.
- ~~J~~ 9. **Release of Bond:** ~~No cash bond may be released by the Clerk,~~ The Clerk shall not release a cash bond, except upon a judge's written Order after judgment has been entered and any fines and costs imposed by the Court have been paid and satisfied.
10. This order shall not be interpreted to limit judicial discretion.
11. If the Delaware County Prosecuting Attorney believes a higher bond is necessary for the safety of witnesses and/or protection of the community, the Prosecutor may request a deviation from the scheduled bond amount.
12. A judge may impose any or all of the following **Conditions of Release:**
- a. Report to the Probation Officer Supervising the Pre-Trial Release Program;
 - b. Remain in the supervisory custody of a named responsible person;
 - c. Live and stay at a specified address;
 - d. Remain in the State of Indiana;
 - e. Have no contact with the victim/complaining witness;
 - f. Not use or possess alcohol;
 - g. Not use or possess any controlled substances unless on order of a physician;
 - h. Submit to drug/alcohol testing at your expense;
 - i. Remain at residence other than at specified hours for specified purposes;
 - j. Not possess a firearm or other dangerous weapon;
 - k. Seek and maintain full time employment/student status;
 - l. Undergo necessary medical or psychiatric treatment, including drug or alcohol abuse treatment;
 - m. Commit no criminal offense.
 - n. Comply with any other condition reasonably calculated to assure appearance in court as required or to assure the safety of any other person and the community.
 - o. Defendant specifically agrees to waive extradition from any jurisdiction inside or outside the United States, wherever he/she may be found, and also agrees not to contest any effort to return him/her to the State of Indiana.